IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.MC.No. 1681 of 2007()

CMP.7086/2006 IN O.R.7/06 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,PATHANAMTHITTA

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PETITIONER:

MUHAMMED KUNJU, ETTIMOOTIL VEEDU,
KUMMANNOOR VILLAGE, KOZHENCHERRY TALUK.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE DEPUTY RANGER, FOREST STATION,
SOUTH KUMARAMPEROOR, PATHANAMTHITTA.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.1681 OF 2007

Dated this the 1st day of June, 2007

ORDER

The petitioner's vehicle has been seized by the police on the allegation that it was used for the illegal transportation of sand. The petitioner applied for release of the vehicle. The learned Magistrate did not grant the said prayer and rejected the petition on the ground that the vehicle was involved in two earlier crimes and the same vehicle had been released to the custody of the petitioner on both those occasions on executing bonds. The learned Magistrate, in these circumstances, did not think it expedient or just to direct release of the vehicle to the petitioner.

2. One must alertly remind himself of the dictum in **Sunderbhai Ambalal Desai v. State of Gujarat** (AIR 2003 SC 638). The anxiety of the courts must always be there to ensure that the property is not subjected to unnecessary

damage and deterioration by exposing it to sun and rain. I am satisfied, in these circumstances, that subject to appropriate conditions, the vehicle can be directed to be released to the petitioner.

3. In the result:

(a) This Crl.M.C. is allowed.

(b) The vehicle in question shall be released to the petitioner on the following terms and conditions:

(i) The petitioner shall make a cash deposit of Rs.50,000/- before the learned Magistrate.

(ii) He shall execute a bond for an amount equivalent to the value of the vehicle as determined by the learned Magistrate with two solvent sureties each for the like sum.

(iii) The learned Magistrate must scrupulously ensure that the sureties offered are sufficient and solvent.

(iv) The petitioner must undertake before the learned Magistrate in the bond to be executed by him that the vehicle shall not be permitted to be made use of for the commission of any offence.

Sd/-
(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge